



UNITED STATES PATENT AND TRADEMARK OFFICE

UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY AND
DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE
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Paper No.

In re Application of : DECISION ON PETITION
Eric Wachter et al : TO WITHDRAW
Serial No. : 09/072,963 : HOLDING OF
Filed : May 5, 1998 : ABANDONMENT
For : Method for Improved Selectivity in Photoactivation :
and Detection of Molecular Diagnostic Agents

This is a decision on petitioner's request filed July 8, 2002, to review the holding of abandonment mailed June 17, 2002 for failure to respond to the Office action mailed March 15, 2000. The basis for the request is that applicant did not receive the Office action mailed March 15, 2000. There is no fee required for this petition. Petitioner's \$130.00 fee will be refunded under separate cover.

In order to overcome the presumption of delivery of an Office action, a practitioner must submit the following: (1) a statement from the practitioner stating that the Office action was not received by practitioner; (2) a statement attesting to the fact that a search of the file jacket and docket record indicates that the Office action was not received; and (3) a copy of the docket record where the non-received Office action would have been entered had it been received and docketed. See 1156 OG 53.

The request filed July 8, 2002, includes all the above elements. The request is therefore GRANTED. The holding of abandonment is hereby withdrawn.

A review of the file reveals that the Office action mailed March 15, 2000 did not take into consideration the preliminary amendments filed May 5, 1999 and May 28, 1999, which amendments were filed prior to the mailing of the Office action of March 15, 2000. In addition, since the mailing of the Office action of March 15, 2000, an Information Disclosure Statement (IDS) and another amendment were filed July 26, 2001. Accordingly, the Office action of March 15, 2000 is hereby vacated, and upon the mailing of this decision, the application will be forwarded to the Examiner for issuance of a new non-final Office action that takes into consideration the amendments of May 5, 1999, May 28, 1999, and July 26, 2001, as well as the IDS of July 26, 2001.

Summary: Holding of Abandonment Withdrawn.
Office Action of March 15, 2000 Vacated.

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